



7/14/1998
Form 09/04/98

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: RADIN et al.

Appln. No.: 08/713,928

Group Art Unit: 1646

Filed: September 13, 1996

Examiner: E. KEMMERER

For: PRODUCTION OF LYSOSOMAL
ENZYMES IN PLANT-BASED
EXPRESSION SYSTEMS

Atty. Dkt. No.: 7956-011

**STATEMENT BY ATTORNEY FOR
APPLICANTS REGARDING PERMANENCE AND
AVAILABILITY OF DEPOSITED SEEDS AND PLASMIDS**

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I, Laura A. Coruzzi, declare and state that:

1. I am the attorney of record in connection with the above-identified application, and represent CorpTech Development Corporation, assignee of the above-identified application.

2. The following seeds and plasmids were deposited with the American Type Culture Collection (ATCC)¹, International Depository Authority, 12301 Parklawn Drive, Rockville, MD 20852 in compliance with the provisions of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purpose of Patent Procedure on behalf of the assignee on the indicated dates and subsequently assigned the indicated accession numbers:

¹ ATCC's present address is 10801 University Boulevard, Manassas, VA 20110-2209.

<u>Deposit</u>	<u>Date</u>	<u>Acc. No.</u>
Xanthi tobacco seed hGC X-11	September 14, 1995	ATCC 97275
Xanthi tobacco seed hGC X-27	September 14, 1995	ATCC 97276
Xanthi tobacco seed CT40-9	August 30, 1996	ATCC 97700
plasmid CTprol:hGC:FLAG DNA	September 14, 1995	ATCC 97277
plasmid pCT22 DNA	August 30, 1996	ATCC 97701
plasmid pCT54 DNA	October 17, 1996	ATCC 97770

3. Each of the above-identified seed deposits contained over 2,500 seeds.

4. All of the deposited seeds and plasmids were viable at the time of deposit as evidenced by the ATCC deposit receipt and viability statements, copies of which are attached hereto as Exhibit 1.

5. I hereby assure the United States Patent and Trademark Office and the public that: (a) all restrictions on the availability to the public of a sample of any of the above-identified deposited seeds and plasmids be irrevocably removed upon issuance of a United States patent of which the deposited seed or plasmid is a subject; (b) each deposited seed or plasmid will be maintained for a period of at least five years after the most recent request for the furnishing of a sample of the deposited seed or plasmid was received by the ATCC and, in any case for a period of at least 30 years after the date of deposit; (c) should any of the deposited seeds and plasmids become non-viable the seed or plasmid will be replaced by the Applicants; and (d) access to the deposited seeds and plasmids will be available to the Commissioner during the pendency of the patent application or to one determined by the Commissioner to be entitled to such seeds and plasmids under 37 C.F.R. § 1.14 and 35 U.S.C. § 122.

I hereby declare further that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true and further I make these statements with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

Date: August 17, 1998

Laura A. Coruzzi 30,742
Laura A. Coruzzi (Reg. No.)

By: George C. Jen 39,239
George C. Jen (Reg No.)

PENNIE & EDMONDS LLP
1155 Avenue of the Americas
New York, New York 10036-2711
Ph: (212) 790-9090



American Type Culture Collection

Exhibit 1

12301 Parklawn Drive • Rockville, MD 20852 USA • Telephone: (301)231-5520 Telex: 898-055 ATCCNORTH • FAX: 301-770-2587

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3 AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Pennie & Edmonds
Attention: S. Leslie Misrock, Esq.
1155 Avenue of the Americas
New York, NY 10036

Deposited on Behalf of: CropTech Development Corporation - Docket No.: 7956-007-999

Identification Reference by Depositor: ATCC Designation

DNA Plasmid, CTprol:hGC:FLAG 97277

The deposit was accompanied by: a scientific description a proposed taxonomic description indicated above.

The deposit was received September 14, 1995 by this International Depository Authority and has been accepted.

AT YOUR REQUEST:

We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years after the date of deposit, and for a period of at least five years after the most recent request for a sample. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested September 28, 1995. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Rockville, Md. 20852 USA

Signature of person having authority to represent ATCC:



Frank Simione, Acting Director, Patent Depository

Date: October 2, 1995



American Type Culture Collection

12301 Parklawn Drive • Rockville, MD 20852 USA • Telephone: (301)231-5520 Telex: 898-055 ATCCNORTH • FAX: 301-770-2587

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3 AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Pennie & Edmonds
Attention: S. Leslie Misrock, Esq.
1155 Avenue of the Americas
New York, NY 10036

Deposited on Behalf of: CropTech Development Corporation - Docket No.: 7956-007-999

Identification Reference by Depositor: ATCC Designation

Xanthi tobacco seed, hGC X-11	97275
Xanthi tobacco seed, hGC X-27	97276

The deposits were accompanied by: a scientific description a proposed taxonomic description indicated above.

The deposits were received September 14, 1995 by this International Depository Authority and have been accepted.

AT YOUR REQUEST:

We will inform you of requests for the seeds for 30 years.

The seeds will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the seeds and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said seeds.

If the seeds should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with viable seeds of the same.

The seeds will be maintained for a period of at least 30 years after the date of deposit, and for a period of at least five years after the most recent request for a sample. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the seeds cited above was tested September 25, 1995. On that date, the seeds were viable.

International Depository Authority: American Type Culture Collection, Rockville, Md. 20852 USA

Signature of person having authority to represent ATCC:

Frank Simione, Acting Director, Patent Depository

Date: October 2, 1995



American Type Culture Collection

12301 Parklawn Drive • Rockville, MD 20852 USA • Telephone: (301)231-5520 Telex: 908-768 ATCCROVE • FAX: 301-816-4366

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3 AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Pennie & Edmonds
Attn: S. Leslie Misrock, Esq.
1155 Avenue of the Americas
New York, NY 10036

Deposited on Behalf of: CropTech Development Corporation (Docket No. 7956-011-999)

Identification Reference by Depositor: ATCC Designation

Xanthi tobacco seeds, CT40-9 97700

The seeds were accompanied by: a scientific description a proposed taxonomic description indicated above.

The seeds were received August 30, 1996 by this International Depository Authority and have been accepted.

AT YOUR REQUEST:

We will inform you of requests for the seeds for 30 years.

The seeds will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the seeds and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said seeds.

If the seeds should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with viable seeds of the same.

The seeds will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the seeds cited above was tested September 9, 1996. On that date, the seeds were viable.

International Depository Authority: American Type Culture Collection, Rockville, Md. 20852 USA

Signature of person having authority to represent ATCC:

Barbara M. Hailey

Date: September 10, 1996

Barbara M. Hailey, Administrator, Patent Depository

cc: David N. Radin



American *Type Culture* Collection

12301 Parklawn Drive • Rockville, MD 20852 USA • Telephone: (301)231-5520 Telex: 908-768 ATCCROVE • FAX: 301-816-4366

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Pennie & Edmonds
Attn: S. Leslie Misrock, Esq.
1155 Avenue of the Americas
New York, NY 10036

Deposited on Behalf of: CropTech Development Corporation (Docket #7956-011-999)

Identification Reference by Depositor: **ATCC Designation**

Plasmid pCT22 97701

The deposit was accompanied by: a scientific description a proposed taxonomic description indicated above.

The deposit was received August 30, 1996 by this International Depository Authority and has been accepted.

AT YOUR REQUEST:

We will not inform you of requests for the strain.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested September 12, 1996. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Rockville, Md. 20852 USA

Signature of person having authority to represent ATCC:

Barbara M. Hailey
Barbara M. Hailey, Administrator, Patent Depository

Date: September 12, 1996

cc: David N. Radin



American Type Culture Collection

12301 Parklawn Drive • Rockville, MD 20852 USA • Telephone: (301)231-5520 Telex: 898-055 ATCCNORTH • FAX: 301-770-2587

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3 AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Pennie & Edmonds
Attn: S. Leslie Misrock, Esq.
1155 Avenue of the Americas
New York, NY 10036

Deposited on Behalf of: CropTech Development Corporation (Docket #7956-011-999)

Identification Reference by Depositor: **ATCC Designation**

Plasmid, strain pCT54 97770

The deposit was accompanied by: a scientific description a proposed taxonomic description indicated above.

The deposit was received October 17, 1996 by this International Depository Authority and has been accepted.

AT YOUR REQUEST: X We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested October 25, 1996. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Rockville, Md. 20852 USA

Signature of person having authority to represent ATCC:

Barbara M. Hailey
Barbara M. Hailey, Administrator, Patent Depository

Date: November 5, 1996